

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAWRENCE R. MOYER,

Plaintiff,

No. CIV S-03-1350 FCD DAD P

vs.

JAMES E. TILTON, et al.,

Defendants.

ORDER AND ORDER DIRECTING SERVICE

BY THE UNITED STATES MARSHAL

WITHOUT PREPAYMENT OF COSTS

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. By order filed January 5, 2007, the court determined that plaintiff's amended complaint states a cognizable claim for relief against defendants James E. Tilton, Jeanne S. Woodford, Jennifer Shaffer, and Mark Shepard and therefore directed counsel for plaintiff to provide information for service of process on form USM-285, a completed summons, sufficient copies of the amended complaint for service, and a notice of compliance. Counsel has submitted the required papers.

Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to forward the instructions for service of process, the completed summons, copies of the amended complaint and copies of this order to the United States Marshal.

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1 2. Within ten days from the date of this order, the United States Marshal is
2 directed to notify defendants James E. Tilton, Jeanne S. Woodford, Jennifer Shaffer, and Mark
3 Shepard of the commencement of this action and to request a waiver of service of summons in
4 accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c).

5 3. The United States Marshal is directed to retain the sealed summons and a copy
6 of the amended complaint in their file for future use.

7 4. The United States Marshal shall file returned waivers of service of summons as
8 well as any requests for waivers that are returned as undelivered as soon as they are received.

9 5. If a waiver of service of summons is not returned by a defendant within sixty
10 days from the date of mailing the request for waiver, the United States Marshal shall:

11 a. Personally serve process and a copy of this order upon the defendant
12 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C.
13 § 566(c) and shall command all necessary assistance from the California
14 Department of Corrections and Rehabilitation (CDCR) to execute this
15 order. The United States Marshal shall maintain the confidentiality of all
16 information provided by the CDCR pursuant to this order.

17 b. Within ten days after personal service is effected, the United States
18 Marshal shall file the return of service for the defendant, along with
19 evidence of any attempts to secure a waiver of service of summons and of
20 the costs subsequently incurred in effecting service on said defendant.
21 Costs shall be enumerated on the USM-285 form and shall include the
22 costs incurred by the Marshal's office for photocopying additional copies
23 of the summons and amended complaint and for preparing new USM-285
24 forms, if required. Costs of service will be taxed against the personally
25 served defendant in accordance with the provisions of Fed. R. Civ. P.
26 4(d)(2).

1 6. Defendants shall reply to the amended complaint within the time provided by
2 the applicable provisions of Fed. R. Civ. P. 12(a).

3 7. All motions shall be noticed for hearing before the undersigned magistrate
4 judge on a regularly scheduled motion calendar and shall be briefed in accordance with the
5 provisions contained in Local Rule 78-230(b) through (d). A motion or opposition supported by
6 unsigned affidavits or declarations will be stricken. Failure to oppose a motion timely may be
7 deemed a waiver of opposition to the motion.

8 DATED: February 13, 2007.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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